

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:	§	CHAPTER 11
	§	
CLEARWATER TRANSPORTATION,	§	
LTD.	§	
	§	
	§	
DEBTOR	§	CASE NO. 19-50292-cag

**NEWTEK SMALL BUSINESS FINANCE, LLC's OBJECTION TO ENTRY OF AN
ORDER APPROVING DEBTOR'S DISCLOSURE STATEMENT**

TO THE HONORABLE RONALD B. KING, CHIEF U.S. BANKRUPTCY JUDGE:

NOW COMES, Newtek Small Business Finance, LLC ("Newtek"), and hereby files its Objection to Entry of An Order Approving Debtor's Disclosure Statement, and in support of such Objection, Newtek states as follows:

I.

BACKGROUND

1. On February 7, 2019, Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code.
2. The Debtor is continuing to operate as a debtor-in-possession.
3. On June 7, 2019, Debtor filed its Chapter 11 Plan [Docket No. 116] (the "Plan").
4. On July 1, 2019, Debtor filed its Disclosure Statement [Docket No. 130].
5. On July 2, 2019, a Notice of Hearing on Approval of Disclosure Statement was filed by the Clerk of the U.S. Bankruptcy [Docket No. 131], and by the Debtor [Docket No. 132]. In both notices, the hearing is set forth August 8, 2019. Any objections to the Disclosure Statement are required to be filed by July 29, 2019.
6. Upon review of the Debtor's Disclosure Statement, Debtor attached as its last page Exhibit 3, titled Plan Financial Projections, followed by:

[TO BE FILED NOT LATER THAN SEVEN DAYS BEFORE DISCLOSURE STATEMENT HEARING].

7. Seven days prior to the hearing on the Disclosure Statement is August 1, 2019.

8. As of today, July 29, 2019, the date Objections are due, Debtor's Exhibit 3 providing the Plan Financial Projections has not been filed.

II.

BASIS FOR OBJECTION

9. 11 U.S.C. § Section 1125(b) provides, in part, that an "acceptance or rejection of a plan may not be solicited...unless [there has been]...a written disclosure statement approved...by the court as containing adequate information."

10. "Adequate information" is defined in §1125(a)(1) as:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgement about the plan, but adequate information need not provide such information about any other possible or proposed plan.

11. Debtor, by its own admission, filed an incomplete Disclosure Statement and therefore, at this date, the day Objections are due, does not comply with the requirement for adequate information. Newtek cannot evaluate whether the Disclosure Statement will provide the information needed to decide whether to accept the plan.

12. In the event Debtor timely files its Exhibit 3 containing its Plan Financial Projections, Newtek reserves the right to further object to the adequacy of the information.

WHEREFORE, PREMISES CONSIDERED, Newtek prays:

1. That the Court denies approval of the Disclosure Statement.

2. And for such other and further relief to which Newtek may be justly entitled.

Dated this 29th day of July 2019.

Respectfully submitted,

FLUME LAW FIRM, LLP
1020 N.E. Loop 410, Suite 530
San Antonio, Texas 78209
(210) 828-5641
(210) 821-6069 Facsimile

/s/ Michael Flume

MICHAEL FLUME
State Bar No. 07188480
mflume@flumelaw.net

ATTORNEYS FOR NEWTEK SMALL
BUSINESS FINANCE, LLC.

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2019, a true and correct copy of the foregoing instrument has been served upon all parties requesting service via ECF notification, and/or via email or first-class mail to the parties on the attached service list.

/s/ Michael Flume

MICHAEL FLUME

Clearwater Transportation, Ltd. – 19-50292

Limited Service List

Debtor:

Clearwater Transportation, Ltd.
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Via Mail

Attorney for Debtor

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Office of the U.S. Trustee

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LENDERS/POTENTIAL SECURED CREDITORS

Funding Circle
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The Airport Properties Manager
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